

SENATE CS FOR CS FOR HOUSE BILL NO. 172(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/5/01

Referred: Finance

Sponsor(s): REPRESENTATIVES PORTER, Murkowski, Rokeberg, Foster, Halcro, McGuire, Hayes, James, Meyer, Croft, Williams, Cissna, Kapsner, Kerttula

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to therapeutic courts for offenders; to the authorized number of**
2 **superior court judges; and amending Rule 35, Alaska Rules of Criminal Procedure."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE PURPOSE; THERAPEUTIC COURTS FOR ALCOHOL- AND
7 DRUG-ADDICTED OFFENDERS. (a) The purposes of therapeutic courts are lasting
8 sobriety of offenders, protection of society from alcohol-related and drug-related crime,
9 prompt payment of restitution to victims of crimes, effective interaction and use of resources
10 among criminal justice and community agencies, and long-term reduction of costs relating to
11 arrest, trial, and incarceration. The pilot therapeutic courts established in (b) of this section
12 will focus on defendants charged with multiple driving while intoxicated offenses and shall
13 serve as working models for the development of other similar courts in other areas of the
14 state. It is the intent of the legislature that the additional superior court judge authorized for

1 the Fourth Judicial District by sec. 2 of this Act be assigned to Bethel and that the additional
 2 superior court judge authorized for the Third Judicial District be assigned to Anchorage. In
 3 addition, the legislature recognizes that district courts are currently experimenting with and
 4 using therapeutic concepts such as those contained in this Act. The legislature acknowledges
 5 these efforts, encourages their continuation in the district courts, and does not intend by this
 6 Act the extinguishment of these efforts.

7 (b) The Alaska Court System shall establish two pilot sites for therapeutic courts for
 8 alcohol- and drug-addicted offenders in Anchorage and Bethel; the Anchorage therapeutic
 9 court shall commence on the effective date of this Act; the Bethel therapeutic court shall
 10 commence on January 2, 2002; the pilot programs shall end three years after the date each
 11 court commences. The Alaska Court System will designate one superior court judge in
 12 Anchorage and one superior court judge in Bethel to preside over the therapeutic courts.
 13 Under the leadership of these judges, all parties involved in the implementation of the
 14 therapeutic court process shall regularly meet to consult about the conduct and improvement
 15 of the process. The pilot programs shall be implemented by the joint efforts of the Alaska
 16 Court System, the Department of Law, the Public Defender Agency, the Department of
 17 Corrections, the Department of Health and Social Services, and other agencies in accordance
 18 with a mutually agreed-upon plan. To the extent feasible, the therapeutic courts shall use
 19 existing public agencies, medical and treatment services, housing, and other public, private,
 20 and nonprofit community services; the pilot program in Bethel shall also consult and
 21 coordinate services with municipal and other local entities to facilitate the successful
 22 reintegration of offenders into municipalities and other locales outside of Bethel. Each
 23 therapeutic court shall be adapted to fit the available local resources and cultural traditions.

24 (c) Nothing in this Act is intended to place additional requirements on or make
 25 changes to other existing specialized or general state courts.

26 (d) In addition to any authorized sentence under AS 12.55, a therapeutic court shall,
 27 to the extent feasible, consider or require

- 28 (1) early intervention to plan and begin treatment for recovery from alcohol or
- 29 drug addiction;
- 30 (2) emphasis on personal responsibility;
- 31 (3) frequent appearances before the same judge to provide in-court recognition

1 of progress and quick sanctions for relapses;

2 (4) in-court recognition of progress and quick sanctions for relapses;

3 (5) if the offender is living in a municipality or an area of the state without a
4 judge, frequent appearances before a person or persons designated by the judge who will
5 report progress and relapses to the judge;

6 (6) prompt payment of restitution for victims;

7 (7) completion of community work service as appropriate for restoration of
8 the community;

9 (8) pharmaceutical treatment of the physical addiction to alcohol or drugs, as
10 approved and prescribed by a physician;

11 (9) treatment addressing the psychosocial bases of the addiction;

12 (10) a strong monitoring program to enforce long-term abstinence;

13 (11) appropriate physical placement or housing;

14 (12) assistance in obtaining a constructive alcohol- and drug-free occupation
15 and lifestyle;

16 (13) assistance from supportive friends and relatives;

17 (14) payment for all or a portion of treatment costs;

18 (15) adherence to all probation conditions;

19 (16) collection of data about and evaluation of the effectiveness of the
20 program;

21 (17) the defendant to execute releases to provide information and reports to
22 the court, the prosecutor, and all agencies involved in the defendant's therapeutic court plan;
23 and

24 (18) case coordination in planning for and assisting offenders in
25 accomplishing the conditions set out in (1) - (17) of this subsection.

26 (e) The state, publicly appointed counsel, and court shall develop a list of sanctions to
27 be imposed in the event that a defendant violates conditions imposed by a therapeutic court.
28 This list shall be provided to all defendants who request referral to a therapeutic court.

29 (f) With the consent of the state or municipal prosecutor and the defendant, a criminal
30 case, including the case of a defendant charged with violating the terms of probation, may be
31 referred to a therapeutic court upon the request of the prosecutor, the defendant, or the court.

1 A case may not be referred to the Anchorage court unless the situs of the alleged crime is
 2 within the Anchorage venue district under Rule 18, Alaska Rules of Criminal Procedure. A
 3 case may not be referred to the Bethel court unless the situs of the alleged crime is within the
 4 Bethel venue district under Rule 18, Alaska Rules of Criminal Procedure. The court may
 5 accept a defendant into the therapeutic court if the defendant is not charged with an
 6 unclassified felony, a class A felony, or an offense under AS 11.41.410 - 11.41.470, or with
 7 violating probation for one of those offenses.

8 (g) Upon acceptance into the therapeutic court, the defendant shall enter a no contest
 9 or guilty plea to an offense or shall admit to a probation violation, as appropriate. The state
 10 and the defendant may enter into a plea agreement to determine the offense or offenses to
 11 which the defendant is required to plead. If the court accepts the agreement, the court shall
 12 enforce the terms of the agreement.

13 (h) The court shall enter a judgment of conviction for the offense or offenses for
 14 which the defendant has pleaded or an order finding that the defendant has violated probation,
 15 as appropriate. A judgment of conviction or an order finding a probation violation must set a
 16 schedule for payment of restitution owed by the defendant. In a judgment of conviction and
 17 upon probation conditions that the court considers appropriate, the court may withhold
 18 pronouncement of a period of imprisonment or a fine to provide an incentive for the defendant
 19 to complete recommended treatment successfully. Imprisonment or a fine imposed by a
 20 therapeutic court shall comply with AS 12.55 or any mandatory minimum or other sentencing
 21 provision applicable to the offense. However, notwithstanding Rule 35, Alaska Rules of
 22 Criminal Procedure, and any other provision of law, the court, at any time after the period
 23 when a reduction of sentence is normally available, may consider and reduce the defendant's
 24 sentence based upon the defendant's compliance with the treatment plan; when reducing a
 25 sentence, the court (1) may not reduce the sentence below the mandatory minimum sentence
 26 for the offense unless the court finds that the defendant has successfully complied with and
 27 completed the treatment plan and that treatment plan approximated the severity of the
 28 minimum period of imprisonment, and (2) may consider the defendant's compliance with the
 29 treatment plan as a mitigating factor allowing a reduction of a sentence pursuant to
 30 AS 12.55.155(a). A court entering an order finding the defendant has violated probation may
 31 withhold pronouncement of disposition to provide an incentive for the defendant to complete

1 recommended treatment successfully.

2 (i) If the defendant is terminated from therapeutic court, the defendant's no contest or
3 guilty plea or admission to a probation violation to the court shall stand, and the sentence
4 previously imposed shall be executed or, if sentence has not yet been imposed, imposition of
5 sentence shall be scheduled in a nontherapeutic court.

6 (j) Notwithstanding any other provision of law to the contrary, the judge, the state, the
7 defendant, and the agencies involved in the defendant's treatment plan are entitled to
8 information and reports bearing on the defendant's assessment, treatment, and progress.

9 (k) The Alaska Judicial Council will develop a uniform data collection form for use
10 by the therapeutic courts. The Council shall evaluate the effectiveness of the pilot therapeutic
11 court programs by developing baseline information and comparing that data with ongoing
12 program results as reported by the therapeutic courts and prepare a report to the legislature,
13 courts, and affected agencies. The report shall be disseminated no later than July 1, 2005.

14 (l) In addition to other conditions authorized under AS 12.30 or AS 12.55, a
15 therapeutic court may impose the following conditions of bail or probation:

16 (1) require the defendant to submit to electronic monitoring if the
17 commissioner of corrections agrees to this condition;

18 (2) require the defendant to submit to house arrest.

19 (m) A defendant who is subject to a condition set out in (l) of this section is not
20 entitled to credit for time served.

21 (n) In addition to other conditions authorized under AS 12.30, a therapeutic court may
22 require the defendant to take a drug or combination of drugs intended to prevent the
23 consumption of alcoholic beverages.

24 (o) The Department of Health and Social Services may require treatment providers to
25 make advances to a defendant accepted to the therapeutic court to cover the initial costs
26 related to the use of Naltrexone if the defendant is otherwise without resources to pay those
27 costs. The court shall require as a condition of probation that the defendant repay the
28 treatment provider.

29 (p) In this section, "sentence" or "sentencing" includes a suspended imposition of
30 sentence as authorized under AS 12.55.085.

31 * **Sec. 2.** AS 22.10.120 is amended to read:

1 **Sec. 22.10.120. Number of judges.** The superior court consists of **34** [32]
2 judges, five of whom shall be judges in the first judicial district, three of whom shall
3 be judges in the second judicial district, **19** [18] of whom shall be judges in the third
4 judicial district, and **seven** [SIX] of whom shall be judges in the fourth judicial
5 district. At the time of submitting the names of nominees to the governor to fill a
6 vacancy on the superior court bench, the judicial council shall also designate the
7 district in which the appointee is to reside and serve.

8 * **Sec. 3.** Section 1(h) of this Act has the effect of amending Rule 35, Alaska Rules of
9 Criminal Procedure, by allowing a court to consider and reduce a criminal sentence outside of
10 the time periods currently provided in that rule.